IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL
Writ Petition No. 1171 (S/B) of 2002

Jai Ram Lapar
S/o Sri Udai Ram Lapar
R/o Village Bhandari
Post Moani
District Pithoragarh ….Petitioner

Versus

State of Uttaranchal
Through Chief Secretary
Government of Uttaranchal
Secretariat Dehradun
& two others ….Respondents

Sri S. Dhulia learned counsel for the petitioner
Learned Standing Counsel for the respondents

Coram: Hon'ble Rajesh Tandon, J.
Hon'ble B.C. Kandpal, J.

(Delivered by Hon'ble Rajesh Tandon, J.)

By the present writ petition, the petitioner has prayed for a writ, order or direction in the nature of certiorari quashing the impugned orders dated 27.08.2002 & 28.08.2002.

Briefly stated that the petitioner is an employee of Rural Development Service in the State of Uttaranchal. At present the petitioner is on the post of Deputy Commissioner, Rural Development.

The grievance of the petitioner is that he initially joined the service in Rural Development in the office of erstwhile State of U.P. in the year 1978 as Block Development Officer. Subsequently, after creation of Uttaranchal State, the petitioner was promoted as District Development Officer in the Rural Development Service and thereafter as Deputy Commissioner in the said service.

There is one post of Chief Development Officer (hereafter referred C.D.O.) and under the C.D.O. there are Block Development Officers and so on. C.D.O. in a class-I post as per policy decision in the then State of Uttar Pradesh, which is still continuing in the State of Uttaranchal. The present petitioner who was at the relevant time posted as Deputy Commissioner, Rural Development at Pauri was transferred as Chief Development Officer, Uttarakashi vide order dated 24.08.2002. Consequently, the petitioner reported to the District Magistrate, Uttarkashi and submitted his credentials before the said authority along with the order dated 24.08.2002. Instead of giving joining to the petitioner, the District Magistrate referred to a letter dated 27.08.2002 passed by the respondent no. 2 whereby respondent no. 2 had transferred Sri Mohan Chandra Upreti as C.D.O. Uttarkashi. Sri Mohan Chandra Upreti belongs to P.C.S. cadre. Therefore, in view of the above respondent no. 3 could not give the charge of C.D.O. Uttarkashi to the petitioner. The petitioner has made a representation of his joining before the District Magistrate which is still pending. The apex Court has formulated the policy that the seniority list must be fixed from the date of appointment.

The Apex Court in the case of **Dr. Chandra Prakash & others Vs. State of U.P. and another in Writ Petition (Civil) No. 43 of 1998** has observed as under:-

> *"We accordingly allow the writ petitions and declare that 1) the writ petitioners are not within the purview of the 1979 Rules. 2) the State Government will fix the seniority of all doctors in the PMHS cadre from the date of the orders of their initial appointment within a*

period of six weeks from the date of this order and give all consequential benefits including promotions and positions on the basis of such seniority list, 3) Those doctors who are selected in 1972 and 1977-78-79 by the PSC and who were not issued any orders of appointment and joined the service on the basis of Tandon's case, will be treated as having been appointed on the date that they actually joined the service and their seniority will be courted from that date. There will be no order as to costs."

The petitioner has submitted that till today the representation of the petitioner has not been disposed of.

There respondents, therefore, are directed to dispose of the representation of the petitioner within a period of six weeks from the filing of the representation in the light of the judgment of the Apex Court **Dr. Chandra Prakash & others Vs. State of U.P. and another in Writ Petition (Civil) No. 43 of 1998.**

The writ petition is disposed of accordingly.

(B.C. Kandpal, J) **(Rajesh Tandon, J.)**

01.11.2004.
ASWAL